

2005 DRAFTING REQUEST

Senate Amendment (SA-AB385)

Received: 07/28/2005

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**

By/Representing: **Jennifer Stegall**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - public health**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Behavioral health, pupil services, and substance abuse professionals; nurse's assistants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			jfrantze 07/29/2005		sbasford 07/29/2005	sbasford 07/29/2005	

FE Sent For:

<END>

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/?	dkennedy	1 9/5 7/29/05	Jb7/29	St/Rs 7/29			

FE Sent For:

<END>

Kennedy, Debora

From: Malaise, Gordon
Sent: Wednesday, July 20, 2005 12:06 PM
To: Kennedy, Debora
Cc: Stegall, Jennifer
Subject: FW: AB 385 changes

Debora:

While you were out to lunch I received this drafting request from Jennifer of Senator Roessler's office. It is wanted today for a committee hearing tomorrow. Because you are the primary drafter of AB 385, you should probably take the first shot at this amendment and then I can make the conforming changes to the ch. 102 provisions.

Gordon

34.31 licensure - school counselor
- school psychologist
school social worker

-----Original Message-----

From: Stegall, Jennifer
Sent: Wednesday, July 20, 2005 11:56 AM
To: Malaise, Gordon
Cc: Jensen, Jodi; Hermes, Ron; Rose, Laura
Subject: AB 385 changes

Hi Gordon,

Here is the information we discussed regarding an amendment to AB 385:

1. Have the local unit of Government declaring a state of emergency call the DHFS 24 hour on-call staff to let them know they are engaging volunteers who will need to be considered state agents for the purpose of liability coverage and workers comp. (I understand that you may need to phrase this differently in the amendment but this is the gist of what Sen. Roessler and Rep. Huebsch are trying to accomplish)

2. Include behavioral health professionals....here is the language DHFS provided on this:

A behavioral health provider means an individual who, at any time within 10 years before a state of emergency is declared under s. 166.03

(1) (b) 1 or 166.23, has met requirements for certification or licensure as a social worker, marriage and family therapist, professional counselor or psychologist under Section 457 of Wisconsin Statutes."

"A pupil services provider means an individual who, at any time within 10 years before a state of emergency is declared under s. 166.03 (1) (b) or 166.23, has met requirements for certification or licensure as a school psychologist, school counselor or school social worker under the requirements identified in Department of Public Instruction Administrative Code PI 3." 34.31

"An alcohol and other drug abuse provider means an individual who, at any time within 10 years before a state of emergency is declared under s. 166.03 (1) (b) 1 or 166.23, has met requirements for registry or certification as an alcohol and drug counselor, clinical supervisor or prevention worker under requirements identified by the Wisconsin Certification Board, Inc." (As you know, under the budget the Cert Bd. is being eliminated with the certification duties going to Reg and Lic. Not sure how to address this, since the budget won't be signed prior to the Health Committee action).

3. Page 4 line 20: delete "to" and replace with "on behalf of."+

Thank you for your help with this amendment on such short notice. As I mentioned, having a copy of the amendment sometime yet today would get great so that any changes can be worked out prior to the Senate Health Committee hearing tomorrow morning.

Thanks again,

Jennifer

Jennifer Stegall
Office of Senator Carol Roessler
608-266-5300/1-888-736-8720
Jennifer.Stegall@legis.state.wi.us



Stegall, Jennifer.vcf

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

7/25/05 From Jennifer Stegall:

Include prohibition on provision of volunteer health care services (and on st. agency status) for nurse's assistant who is listed on registry under s. 146.40.

FRIDAY 7/29, if possible

2005 - 2006 LEGISLATURE

0860/1
LRBa0849/r
DAK&GMM:cjs:rs
stay

SENATE AMENDMENT ,
TO 2005 ASSEMBLY BILL 385

fill in

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 6: after "providers" insert ", behavioral health providers, pupil
3 services providers, or substance abuse prevention providers".

4 **2.** Page 3, line 6: delete "health care" and substitute "behavioral health
5 provider, health care provider, pupil services provider, or substance abuse
6 prevention".

7 **3.** Page 3, line 7: delete that line and substitute "unpaid behavioral health
8 services, health care services, pupil services, or substance abuse prevention services
9 on behalf of a health care facility during a state of emergency is".

10 **4.** Page 3, line 10: delete "health care" and substitute "behavioral health
11 provider, health care provider, pupil services provider, or substance abuse
12 prevention".

1 **5.** Page 3, line 12: delete that line and substitute “providing volunteer, unpaid
2 behavioral health services, health care services, pupil services, or substance abuse
3 prevention services on behalf of a health care facility during a”.

4 **6.** Page 3, line 18: after “(4)” insert “and volunteer behavioral health providers,
5 pupil services providers, and substance abuse prevention providers who provide
6 services under s. 250.042 (4)”.

7 **7.** Page 4, line 2: after that line insert:

8 **“SECTION 3m.** 166.23 (2m) of the statutes is created to read:

9 **166.23 (2m)** If the governing body of a city, village, or town declares an
10 emergency under sub. (1) and intends to make use of behavioral health providers,
11 health care providers, pupil services providers, or substance abuse prevention
12 providers, as specified in s. 250.042 (4), the governing body or its agent shall, as soon
13 as possible, notify the department of health and family services of this intent.”.

14 **8.** Page 4, line 4: after that line insert:

15 **“1.** “Behavioral health provider” means an individual who, at any time within
16 10 years before a state of emergency is declared under s. 166.03 (1) (b) 1. or 166.23,
17 has, under chapter 455, been licensed as a psychologist or has, under ch. 457, been
18 certified as a social worker or licensed as a clinical social worker, a marriage and
19 family therapist, or a professional counselor.”.

20 **9.** Page 4, line 5: delete “1.” and substitute “2.”.

21 **10.** Page 4, line 6: delete “2.” and substitute “3.”.

22 **11.** Page 4, line 13: after that line insert:

1 “4. “Pupil services provider” means an individual who, at any time within 10
2 years before a state of emergency is declared under s. 166.03 (1) (b) 1. or 166.23, has
3 been licensed as a school counselor, school psychologist, or school social worker under
4 ch. PI 3, 2004 Wis. Adm. Code, or s. PI 34.31, Wis. Adm. Code.

5 5. “Substance abuse prevention provider” means an individual who, at any
6 time within 10 years before a state of emergency is declared under s. 166.03 (1) (b)
7 1. or 166.23, has been certified as a counselor, supervisor, or specialist under s. HFS
8 75.02 (11) and (84), 2005 Wis. Adm. Code, or has been certified as a substance abuse
9 counselor, clinical supervisor, or prevention specialist under s. 440.75.”.

10 **12.** Page 4, line 14: delete lines 14 to 21 and substitute:

11 “(b) A behavioral health provider, health care provider, pupil services provider,
12 or substance abuse prevention provider who, during a state of emergency declared
13 under s. 166.03 (1) (b) 1. or 166.23, provides behavioral health services, health care
14 services, pupil services, or substance abuse prevention services for which the
15 behavioral health provider, health care provider, pupil services provider, or
16 substance abuse prevention provider has been licensed or certified or, as a nurse’s
17 assistant, has met requirements, is, for the provision of these services a state agent
18 of the department for purposes of ss. 165.25 (6), 893.82, and 895.46 and is an
19 employee of the state for purposes of worker’s compensation benefits. The behavioral
20 health services, health care services, pupil services, or substance abuse prevention
21 services shall be provided on behalf of a health care facility on a voluntary, unpaid
22 basis, except that the behavioral health provider, health care provider, pupil services
23 provider, or substance abuse prevention provider may accept reimbursement for
24 travel, lodging, and meals.”.

13. Page 5, line 12: after that line insert:

“8. A social worker, advanced practice social worker, or independent social worker whose certificate has been revoked, limited, suspended, or denied renewal under s. 457.26, or a clinical social worker, marriage and family therapist, or professional counselor whose license has been revoked, limited, suspended, or denied renewal under s. 457.26.

9. A psychologist whose license has been revoked, limited, suspended, or denied renewal under s. 455.09.

10. A school counselor, school psychologist, or school social worker whose license has been denied or revoked under ch. PI 3, 2004 Wis. Adm. Code, or s. PI 34.35, Wis. Adm. Code.

11. A counselor, supervisor, or specialist whose certification has been denied or revoked by the Wisconsin Certification Board, Inc., or a substance abuse counselor, clinical supervisor, or prevention specialist whose certification has been revoked, limited, suspended, or denied under s. 440.75 (6).

SECTION 4m. 440.75 (5) of the statutes, as created by 2005 Wisconsin Act (Assembly Bill 100), is amended to read:

440.75 (5) CERTIFICATION REQUIRED. Except as provided in sub. (3m) and s. 250.042 (4) (b), no person may represent himself or herself to the public as a substance abuse counselor, clinical supervisor, or prevention specialist or a certified substance abuse counselor, clinical supervisor, or prevention specialist or use in connection with his or her name a title or description that conveys the impression that he or she is a substance abuse counselor, clinical supervisor, or prevention

1 specialist or a certified substance abuse counselor, clinical supervisor, or prevention
2 specialist unless he or she is so certified under sub. (2).”.

3 **14.** Page 8, line 16: after that line insert:

4 “**SECTION 17g.** 455.02 (1m) of the statutes is amended to read:

5 455.02 (1m) LICENSE REQUIRED TO PRACTICE. ~~No~~ Except as provided in s. 250.042
6 (4) (b), no person may engage in the practice of psychology or the private practice of
7 school psychology, or attempt to do so or make a representation as authorized to do
8 so, without a license issued by the examining board.

9 **SECTION 17j.** 455.02 (3m) of the statutes is amended to read:

10 455.02 (3m) USE OF TITLES. ~~Only~~ Except as provided in s. 250.042 (4) (b), only
11 an individual licensed under s. 455.04 (1) may use the title “psychologist” or any
12 similar title or state or imply that he or she is licensed to practice psychology, and
13 only an individual licensed under s. 455.04 (4) may use the title “private practice
14 school psychologist” or any similar title or state or imply that he or she is licensed
15 to engage in the private practice of school psychology. ~~Only~~ Except as provided in s.
16 250.042 (4) (b), only an individual licensed under s. 455.04 (1) or (4) may represent
17 himself or herself to the public by any description of services incorporating the word
18 “psychological” or “psychology”.

19 **SECTION 17m.** 457.04 (intro.) of the statutes is amended to read:

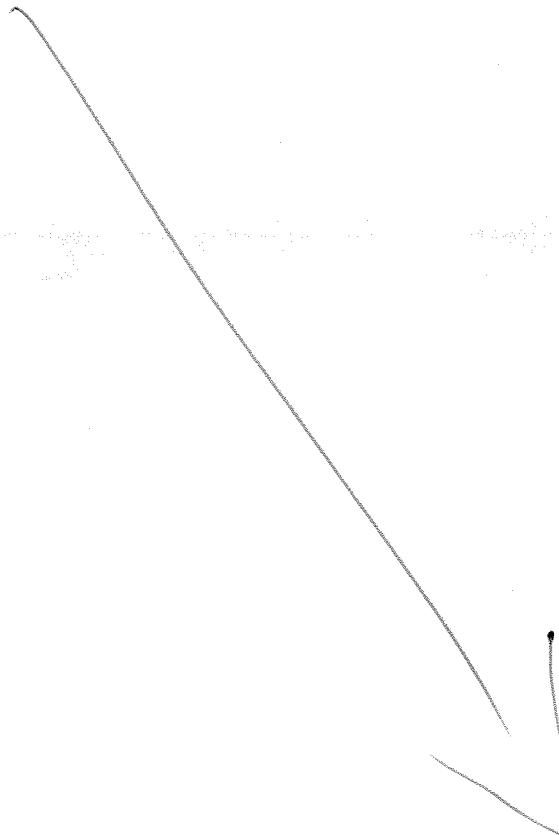
20 **457.04 Prohibited practices.** (intro.) Except as provided in s. ss. 250.042
21 (4) (b) and 457.02, no person may do any of the following:”.

22 **15.** Page 8, line 18: delete “health care” and substitute “behavioral health
23 provider, health care provider, pupil services provider, or substance abuse
24 prevention”.

- 1 **16.** Page 8, line 21: delete "health care" and substitute "behavioral health
2 provider, health care provider, pupil services provider, or substance abuse
3 prevention".

4 ~~~~~~(END)~

#. Page 8, line 22: after that line insert : ✓



2005

Nonstat File Sequence: **FFF**

LRB _____/_____/_____

_____:_____:_____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: ... **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # ____ . Effective date.

(#1) () This act takes effect
on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # 19m . Effective dates

This act takes effect on the day after publication, except as follows:

(#1) () The treatment of
section 440.75(5) the day after publication or on

of the statutes takes effect on the date on which the treatment of subchapter VII of
chapter 440 of the statutes takes effect under Section 9421(10g) of 2005 Wisconsin
Act 25,
whichever
is
later.

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 ____ . Effective dates;

(#1) () The treatment of
sections
of the statutes takes effect on

(End)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

INSERT 4.15

Q 12. A nurse's nurse's assistant whose name is listed

under s. 146.40 (4)(g) (a) 2.

(4g)

D-NOTE

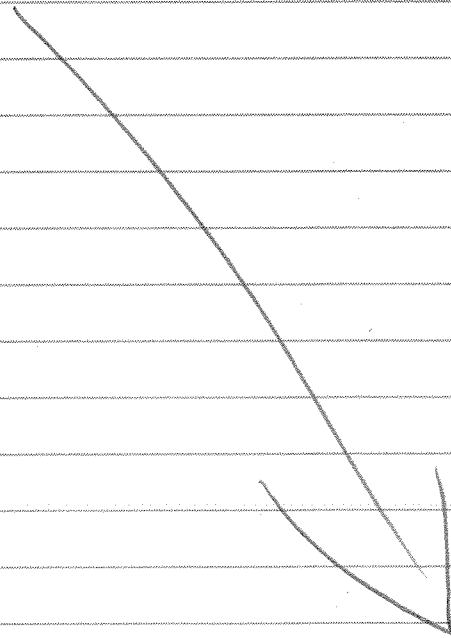
To Jennifer Stegall:

¶ I have decided that my concerns about the amendment, originally drafted as ~~LRB~~ 20249/1, are unfounded, so have not made the changes I spoke to you about the other day; essentially, I was worried that the terms "behavioral health services," "pupil services," etc., should be defined, but I now think that the phrase "...for which the behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider has been licensed or certified..." (in s. 250.042(4)(b) in the amendment) will suffice, because the licensing or certifying body will have established the parameters

for the provider's scope of practice under the license or certification, and it's therefore unnecessary for the statute to establish what that is. ✓

¶ Therefore, this amendment only adds
✓
s. 250.042 (4)(c) 12. to the original amendment, as requested.

¶ Please note, though, my question on the Drafter's Note for the original amendment:



**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0849/1dn
DAK:cjs:rs

July 20, 2005

Will the behavioral health providers, pupil services providers, and substance abuse prevention providers be providing services only on behalf of a health care facility, or some other entity (such as a school)?

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0860/1dn
DAK:cjs:jf

July 29, 2005

To Jennifer Stegall:

I have decided that my concerns about the amendment, originally drafted as LRBa0849/1, are unfounded, so have not made the changes I spoke to you about the other day; essentially, I was worried that the terms "behavioral health services," "pupil services," etc., should be defined, but I now think that the phrase "...for which the behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider has been licensed or certified..." (in s. 250.042 (4) (b) in the amendment) will suffice, because the licensing or certifying body will have established the parameters for the provider's scope of practice under the license or certification, and it's therefore unnecessary for the statute to establish what that is.

Therefore, this amendment only adds s. 250.042 (4) (c) 12. to the original amendment, as requested.

Please note, though, my question on the Drafter's Note for the original amendment:

Will the behavioral health providers, pupil services providers, and substance abuse prevention providers be providing services only on behalf of a health care facility, or some other entity (such as a school)?

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
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